

### **REMARKS**

Claims 1-16 and 18-39 are pending. Claims 1, 14, 22, 27, 33, and 35 have been amended. Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Entry of this amendment is respectfully requested since no new issues are raised by entry of the amendment and it places the application in condition for allowance, or at least in better form for appeal.

#### ***Claim Rejections Under 35 U.S.C. § 112***

Claims 33-35 were rejected under 35 U.S.C. § 112, second paragraph. Applicants apologize for the oversight in Applicants' previous response and have herewith amended claims 33 and 35 to correct the informalities identified by the Examiner. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

#### ***Claim Rejections Under 35 U.S.C. § 102***

A. Claims 1-8, 10, 12-16, 18-21, 23, 25, and 26 were rejected under 35 U.S.C. § 102(b) over Sony (TCD-D8 1995). Applicants respectfully traverse this rejection.

Claim 1 has been amended to recite a device for providing treatment of an auditory system disorder that includes a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session. Claim 1 has been amended to recite the volume adjusting feature in more definite structural terms.

As discussed previously, Sony merely discloses a digital audio tape-corder. Sony fails to disclose a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in amended claim 1. Therefore, Sony fails to disclose the features of amended claim 1.

Claims 2-8, 10, 12, and 13 are believed allowable for at least the reasons presented above with respect to claim 1 by virtue of their dependence upon claim 1.

Claim 14 has been amended to include the subject matter of claim 22 which the Examiner indicated was allowable over the prior art of record. Therefore, Applicants respectfully submit that claim 14 is allowable.

Claims 15-21, 23, 25, and 26 are believed allowable for at least the reasons presented above with respect to claim 14 by virtue of their dependence upon claim 14 and for at least the reasons presented above with respect to claims 1-8, 10, 12, and 13 since claims 15-21, 23, 25, and 26 recite features that are similar to the features of claims 1-8, 10, 12, and 13 discussed above.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 1-8, 10, 12-16, 18-21, 23, 25, and 26.

**B.** Claims 27-30 were rejected under 35 U.S.C. § 102(b) over Gooch (U.S. Patent No. 5,403,262). Applicants respectfully traverse this rejection.

Claim 27 has been amended to recite a device for providing treatment of tinnitus that includes a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session. Claim 27 has been amended to recite the volume adjusting feature in more definite structural terms.

As discussed previously, Gooch relates to a tinnitus masking device but fails to teach the volume adjusting feature recited in claim 27. Specifically, although Gooch teaches a volume control 34 (see, Figure 5), the volume control in Gooch is a standard control. Gooch does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in amended claim 27. Therefore, Gooch fails to teach the features of amended claim 27.

Claims 28-30 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-30.

**C.** Claims 27-29, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 102(b) over Aldeman (U.S. Patent No. 6,041,129). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session. Claim 27 has been amended to recite the volume adjusting feature in more definite structural terms.

As discussed previously, Aldeman relates to a hearing aid which fails to teach the volume adjusting feature recited in claim 27. Specifically, although Aldeman teaches a volume control potentiometer 216 (see, Figure 11 and column 14, lines 59-66), the volume control in Aldeman is a standard control. Aldeman does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in amended claim 27. Therefore, Aldeman fails to teach the features of amended claim 27.

Claims 28, 29, 31, 32, 37, and 38 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, 32, 37, and 38.

D. Claims 27-29, 31, 32, and 35-37 were rejected under 35 U.S.C. § 102(b) over T pholm (U.S. Patent No. 4,947,432). Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session.

As discussed previously, T pholm relates to a hearing aid which fails to teach the volume adjusting feature recited in claim 27. Specifically, although T pholm teaches a volume control 16 (see, Figure 6), the volume control in T pholm is a standard control. T pholm does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in amended claim 27. Therefore, T pholm fails to teach the features of amended claim 27.

Claims 28, 29, 31, 32, and 35-37 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, 32, and 35-37.

#### ***Claim Rejections Under 35 U.S.C. § 103***

A. Claims 1-8, 10, 14-16, 18-21, and 23 were rejected under 35 U.S.C. § 103(a) over Al-Jassim (1998) in view of Sony. Applicants respectfully traverse this rejection.

Claims 1-8, 10, 14-16, 18-21, and 23 are believed allowable for at least the reasons presented above with respect to the rejections of claim 1 and 14 over Sony and because Al-Jassim does not remedy the deficiencies of Sony discussed above. Specifically, Al-Jassim does not teach or suggest a volume adjusting feature that requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in claim 1. Therefore, no combination of Al-Jassim and Sony teach or suggest the subject matter of claims 1-8, 10, 14-21, and 23.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 1-8, 10, 14-16 18-21, and 23.

B. Claims 11, and 24 were rejected under 35 U.S.C. § 103(a) over Sony in view of Wolf et al. (U.S. Patent No. 4,254,922). Applicants respectfully traverse this rejection.

Claims 11, and 24 are believed allowable for at least the reasons presented above with respect to claims 1 and 14 by virtue of their dependence upon claims 1 and 14 and because Wolfe does not remedy the deficiencies of Sony discussed above.

Accordingly, Applicants' respectfully request reconsideration and withdrawal of this rejection of claims 9, 11, and 24.

C. Claims 27-29, 31, and 32 were rejected under 35 U.S.C. § 103(a) over Zoels et al. (U.S. Patent No. 6,047,074) in view of Rastatter et al. (U.S. Patent No. 5,961,443).

Applicants respectfully traverse this rejection.

Claim 27 recites a device for providing treatment of tinnitus that includes a volume adjusting feature for requiring a patient to reset the volume of the treatment signal at the beginning of each treatment session. Claim 27 has been amended to recite the volume adjusting feature in more definite structural terms.

As admitted in the Office Action, on page 8, Zoels fails to teach or suggest the volume adjusting feature recited in claim 27. The Office Action alleges that Rastatter teaches this feature and that the combination of Rastatter with Zoels would render claim 27 obvious. However, the volume adjusting feature 15a in Rastatter is merely a conventional volume control. Rastatter does not teach that the volume adjusting feature of the device requires a patient to reset the volume of the treatment signal at the beginning of each treatment session, as recited in amended claim 27. Therefore, Rastatter fails to teach or suggest the features of claim 27. Accordingly, no combination of these references renders the claimed invention obvious.

Claims 28, 29, 31, and 32 are believed allowable for at least the reasons presented above with respect to claim 27 by virtue of their dependence upon claim 27. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 27-29, 31, and 32.

#### ***Allowable Subject Matter***

Applicants appreciate the Examiner's indication that claims 9 and 22 contain allowable subject matter and would be allowable if rewritten in independent form to include all of the features of their base claims and any intervening claims. However, in view of the foregoing, Applicants submit that all of the claims (claims 1-16 and 18-39) are allowable.

**Conclusion**

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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